

NOV 09 2005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of
Burbank et al.For: **TISSUE SITE MARKERS FOR
IN VIVO IMAGING**

Serial No.: 10/658,911

Filed: September 10, 2003

Docket No.: R0367-01601

Examiner: Joseph M. Pelham

Group Art Unit: 3742

RESPONSE TO OFFICE ACTION MAILED
11/03/2005

CERTIFICATE OF MAILING/FACSIMILE PURSUANT TO 37 C.F.R. §1.8

I hereby certify that this these papers are being sent by facsimile to (571) 273-8300, Attn: Examiner Joseph M. Pelham, at Mail Stop
Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 9, 2005, in San Francisco, CA.Mail Stop Amendment
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In the Office Action mailed November 3, 2005, claims 42 and 43 were rejected by the Examiner under judicially created doctrine of obviousness-type double patenting. In response, applicants have filed concurrently herewith a Terminal Disclaimer. Applicants believe that the pending claims are directed to patentable subject matter. Reconsideration and an early allowance are respectfully requested.

Respectfully submitted,

By: Edward J. Lynch
Attorney for Applicants
Registration No. 24,422DUANE MORRIS LLP
One Market
Spear Tower, Suite 2000
San Francisco, CA 94105
Facsimile: (415) 371-2201
Direct Dial: (415) 371-226711/10/2005 TL0111 00000042 041679 10658911
01 FC:2814 65.00 DA